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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/068,592 05/14/98 MORITA

K XIP5934US0

000881

IM62/0929

EXAMINER

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ALEXANDRIA VA 22314

WEINER, L

ART UNIT

PAPER NUMBER

1745

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DATE MAILED:

09/29/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.
09/068,592

Applicant(s)
Morita et al.

Examiner
Laura Weiner

Group Art Unit
1745



☒ Responsive to communication(s) filed on May 14, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-37 is/are pending in the application.

Of the above, claim(s) none is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-37 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☒ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-12, 23-27, drawn to a carbon material and a method for producing a coated material.

Group II, claim(s) 13-22, 32-37, drawn to a second method for producing a carbon material.

Group III, claim(s) 28-31, drawn to a lithium secondary battery.

2. The inventions listed as Groups I, II and III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

For claim 1, Applicant has not provided evidence to show that the carbon material is novel and contains a corresponding special technical feature and has not shown any data that the carbon material is nonobvious for use in a lithium secondary battery and would therefore get unexpected results. For example, JP 6-267531 teaches carbonaceous material particles satisfying condition

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(1) are mixed with organic compound particles satisfying condition (2). The mixture is heated to carbonize the organic compound. The carbonaceous material particles are covered with a carbonaceous material satisfying condition (3). The conditions are as follows: (1) D_{002} is up to 3.37 Å [0.337 nm], the true density is at least 2.10 g/cm³; D_{002} x-ray wide angle diffraction is at least 3.38 Å [0.338 nm] and Tanaka et al. (5,344,726) teaches in column 1, lines 45-53, a carbon anode for a secondary battery in which a carbon active material of the carbon anode is covered with an amorphous carbon particle. The interlayer distance of the carbon in the c-axis direction ranges from 0.337 to 0.360 nm. Therefore, Groups I, II and III do not provide any contribution over the prior art.

3. A telephone call was not made to request an oral election to the above restriction requirement because of the complexity of the invention to choose, and therefore did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

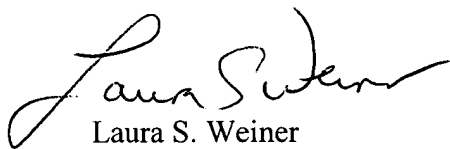
4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Weiner whose telephone number is (703) 308-4396. The examiner can normally be reached on Monday-Friday from 7:30 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Maria Nuzzolillo, can be reached on (703) 305-3776. The official fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Laura S. Weiner
Patent Examiner
Art Unit 1745
September 28, 1999